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U.S. CONGRESS. HOUSE. COMMITTEE ON INTERSTATE
AND FOREIGN COMMERCE. (HEARING ON H. R. 3924)

TO AMEND THE PUBLIC HEALTH SERVICE ACT-
PERSONNEL AND ADMINISTRATION

JULY 1947

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**TO AMEND THE PUBLIC HEALTH SERVICE ACT—
PERSONNEL AND ADMINISTRATION**

U. S. Congress, House, Committee on Interstate
and Foreign Commerce,

HEARING on H. R. 3924
BEFORE A
July 1947

**SUBCOMMITTEE OF THE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE
HOUSE OF REPRESENTATIVES**

EIGHTIETH CONGRESS

FIRST SESSION

ON

H. R. 3924

**A BILL TO AMEND THE PUBLIC HEALTH SERVICE
ACT IN REGARD TO CERTAIN MATTERS OF
PERSONNEL AND ADMINISTRATION,
AND FOR OTHER PURPOSES**

JULY 3, 1947

Printed for the use of the
Committee on Interstate and Foreign Commerce



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TO AMEND THE PUBLIC HEALTH SERVICE ACT IN REGARD TO CERTAIN MATTERS OF PERSONNEL AND ADMINISTRATION, AND FOR OTHER PURPOSES

THURSDAY, JULY 3, 1947

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE,
Washington, D. C.

The subcommittee met at 2 p. m., pursuant to call, in room 414, House Office Building, Hon. James I. Dolliver, presiding.

Mr. DOLLIVER. The committee will come to order.

This hearing is for the purpose of considering H. R. 3924.
(H. R. 3924 is as follows:)

[H. R. 3924, 80th Cong., 1st sess.]

A BILL To amend the Public Health Service Act in regard to certain matters of personnel and administration, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (j) of section 2 of the Public Health Service Act, as amended (42 U. S. C., ch. 6A), is amended by inserting immediately after the semicolon at the end thereof the words "isonipecaïne and its derivatives, compounds, salts, and preparations;"

SEC. 2. Section 203 of such Act is amended by striking out the last sentence thereof.

SEC. 3. Section 205 of such Act is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsections:

"(c) The Surgeon General, with the approval of the Administrator, is authorized to create special temporary positions in the grade of Assistant Surgeon General when necessary for the proper staffing of the Service; but the number of such special temporary positions, when added to the eight positions created by section 204 and subsections (a) and (b) of this section, shall not on any day exceed three-fourths of 1 per centum of the highest number, during the ninety days preceding such day, of officers of the Regular Corps on active duty and officers of the Reserve Corps on active duty for more than thirty days. The Surgeon General may assign officers of either the Regular Corps or the Reserve Corps to any such special temporary positions, and while so serving they shall each have the title of Assistant Surgeon General."

SEC. 4. (a) The first sentence of subsection (a) of section 206 of such Act is amended to read: "The Surgeon General, during the period of his appointment as such, shall be of the same grade, with the same pay and allowances, as the Surgeon General of the Army; and the Deputy Surgeon General, while assigned as such, shall have the grade corresponding with the grade of major general, with the same pay and allowances, Assistant Surgeons General, while assigned as such, shall have the grade, with the pay and allowances thereof, corresponding with either the grade of brigadier general or the grade of major general, as may be determined by the Administrator after considering the importance of the duties to be performed: *Provided*, That the number of officers having a grade higher than that corresponding to the grade of brigadier general shall at no time exceed one-half of the number of positions created either by subsection (b) of section 205 or pursuant to subsection (c) of such section."

(b) Such section is further amended by adding at the end thereof the following new subsections:

"(c) Any commissioned officer below the grade of director who is assigned to serve as chief of a division shall, for the duration of such assignment, have the grade of director and receive the pay and allowances applicable to such grade.

"(d) Within the total number of officers of the Regular Corps authorized by the appropriation Act or Acts for each fiscal year to be on active duty, the Administrator shall by regulation prescribe the maximum number of officers authorized to be in each of the grades from the junior assistant grade to the director grade, inclusive. Such numbers shall be determined after considering the anticipated needs of the Service during the fiscal year, the funds available, the number of officers in each grade at the beginning of the fiscal year, and the anticipated appointments, the anticipated promotions based on years of service, and the anticipated retirements during the fiscal year. The number so determined for any grade for a fiscal year may not exceed the number limitation (if any) contained in the appropriation Act or Acts for such year. Such regulations for each fiscal year shall be prescribed as promptly as possible after the appropriation Act fixing the authorized strength of the corps for that year, and shall be subject to amendment only if such authorized strength or such number limitation is thereafter changed. The maxima established by such regulations shall not require (apart from action pursuant to other provisions of this Act) any officer to be separated from the Service or reduced in grade."

SEC. 5. (a) Such Act is further amended by striking out section 207 thereof and by redesignating sections 208 and 209 as sections 207 and 208, respectively.

(b) Paragraph (1) of subsection (a) of the section herein redesignated as section 207 is amended by striking "surgery" therefrom. The second sentence of paragraph (2) of such subsection is amended to read: "Reserve commissions shall be for a period of not more than five years and may be terminated at any time, as the President may direct."

(c) Subsection (b) of such section is amended to read:

"(b) Not more than 10 per centum of the original appointments to the Regular Corps authorized to be made during any fiscal year may be made to grades above that of senior assistant, but no such appointment may be made to a grade above that of director. For the purpose of this subsection the number of original appointments authorized to be made during a fiscal year shall be (1) the excess of the number of officers of the Regular Corps authorized by the appropriation Act or Acts for such year over the number of officers on active duty in the Regular Corps on the first day of such year, plus (2) the number of such officers of the Regular Corps who, during such fiscal year, have been or will be retired upon attainment of age sixty-four or have for any other reason ceased to be on active duty. In determining the number of appointments authorized by this subsection an appointment shall be deemed to be made in the fiscal year in which the nomination is transmitted by the President to the Senate. No person shall be appointed pursuant to this subsection unless he meets standards established in accordance with regulations of the President."

(d) Such section is further amended by redesignating subsections (c), (d), (e), and (f) thereof as subsections (e), (f), (g), and (h), respectively; by changing "subsection (c)" to "subsection (e)" and changing "subsection (d)" to "subsection (f)" in the subsection hereby designated as subsection (g); and by inserting after subsection (b) the following new subsections:

"(c) Commissions evidencing the appointment by the President of officers of the Regular or Reserve Corps shall be issued by the Administrator under the seal of the Federal Security Agency.

"(d) (1) For purposes of pay and pay period and for purposes of promotion, any person appointed under subsection (a) to the grade of senior assistant in the Regular Corps, and any person appointed under subsection (b), shall, except as provided in paragraphs (2) and (3) of this subsection, be considered as having had on the date of appointment the following length of service: Three years if appointed to the senior assistant grade, ten years if appointed to the full grade, seventeen years if appointed to the senior grade, and eighteen years if appointed to the director grade.

"(2) For purposes of pay and pay period, any person appointed under subsection (a) to the grade of senior assistant in the Regular Corps, and any person appointed under subsection (b), shall, in lieu of the credit provided in paragraph (1), be credited with the service for which he is entitled to credit under any other provision of law if such service exceeds that to which he would be entitled under such paragraph.

"(3) For purposes of promotion, any person originally appointed in the Regular Corps to the senior assistant grade or above who has had active service in the Reserve Corps shall be considered as having had on the date of appointment the length of service provided for in paragraph (1), plus whichever of the following is greater: (A) The excess of his total active service in the Reserve Corps (above the grade of junior assistant) over the length of service provided in such paragraph, to the extent that such excess is on account of service in the Reserve Corps in or above the grade to which he is appointed in the Regular Corps or (B) plus his active service in the same or any higher grade in the Reserve Corps after the first day on which, under regulations in effect on the date of his appointment to the Regular Corps, he would have had the training and experience necessary for such appointment.

"(4) For purposes of promotion, any person whose original appointment is to the assistant grade in the Regular Corps shall be considered as having had on the date of appointment service equal to his total active service in the Reserve Corps in and above the assistant grade."

(e) Beginning as of the date of enactment of this Act, any officer of the Regular Corps of the Public Health Service on active duty on such date shall, in lieu of the service with which he was credited for the purposes of pay and pay period at the time of his appointment to such corps, receive credit, if it is greater, for three years if his appointment was to the senior assistant grade, twelve years if it was to the full grade, twenty years if it was to the senior grade, and twenty-six years if it was to the director grade.

(f) Any person appointed to any grade above the assistant grade in the Regular Corps of the Public Health Service after enactment of this Act and prior to January 1, 1948, shall, for purposes of pay and pay period, and (except in the case of an appointment to the director grade) for purposes of promotion, receive the credit provided under section 207 of the Public Health Service Act, as amended by this Act, or shall receive credit, if it is greater, of three years if appointed to the senior assistant grade, twelve years if appointed to the full grade, twenty years if appointed to the senior grade, and twenty-six years if appointed to the director grade. In the case of an officer so appointed to the full or senior grade (1) he shall receive two years' seniority in grade if appointed to the full grade and three years' if appointed to the senior grade, and (2) he shall be considered as having completed the one year of service in grade required for promotion to a restricted grade or to the director grade, as the case may be.

(g) Subsection (h) of the section herein redesignated as section 208 is amended by striking out "section 208 (d)" and inserting in lieu thereof "section 207 (f)".

(h) Such Act is further amended by inserting after the section herein redesignated as section 208 the following new section:

"SEC. 209. (a) For the purpose of establishing eligibility of officers of the Regular Corps for promotions, the Surgeon General shall by regulation divide the corps into professional categories. Each category shall, as far as practicable, be based upon one of the subjects of examination set forth in section 207 (a) (1) or upon a subdivision of such subject, and the categories shall be designed to group officers by fields of training in such manner that officers in any one grade in any one category will be available for similar duty in the discharge of the several functions of the Service.

"(b) Each officer of the Regular Corps on active duty shall, on the basis of his training and experience, be assigned by the Surgeon General to one of the categories established by regulations under subsection (a). Except upon amendment of such regulations, no assignment so made shall be changed unless the Surgeon General finds (1) that the original assignment was erroneous, or (2) that the officer is equally well qualified to serve in another category to which he has requested to be transferred, and that such transfer is in the interest of the Service.

"(c) Within the limits fixed by the Administrator in regulations under section 206 (d) for any fiscal year, the Surgeon General shall determine for each category in the Regular Corps the maximum number of officers authorized to be in each of the grades from the assistant grade to the director grade, inclusive.

"(d) The excess of the number so fixed for any grade in any category over the number of officers of the Regular Corps on active duty in such grade in such category (including, in the case of the director grade, officers holding such grade in accordance with section 206 (c)) shall for the purpose of promotions constitute vacancies in such grade in such category. For purposes of this subsection, an officer who has been temporarily promoted or who is temporarily holding the

grade of director in accordance with section 206 (c) shall be deemed to hold the grade to which so promoted or which he is temporarily holding; but while he holds such promotion or grade, and while any officer is temporarily assigned to a position pursuant to section 205 (c), the number fixed under subsection (c) of this section for the grade of his permanent rank shall be reduced by one.

"(e) The absence of a vacancy in a grade in a category shall not prevent an appointment to such grade pursuant to section 207, a permanent length of service promotion, or the recall of a retired officer to active duty; but the making of such an appointment, promotion, or recall shall be deemed to fill a vacancy if one exists.

"(f) Whenever a vacancy exists in any grade in a category the Surgeon General may increase by one the number fixed by him under subsection (c) for the next lower grade in the same category, without regard to the numbers fixed in regulations under section 206 (d); and in that event the vacancy in the higher grade shall not be filled except by a permanent promotion, and upon the making of such promotion the number for the next lower grade shall be reduced by one."

SEC. 6. (a) Section 210 of such Act is amended to read:

"SEC. 210. (a) Promotions of officers of the Regular Corps to any grade up to and including the director grade shall be either permanent promotions based on length of service, other permanent promotions to fill vacancies, or temporary promotions. Permanent promotions shall be made by the President, by and with the advice and consent of the Senate, and temporary promotions shall be made by the President. Each permanent promotion shall be to the next higher grade, and shall be made only after examination given in accordance with regulations of the President.

"(b) The President may by regulation provide that in a specified professional category permanent promotions to the senior grade, or to both the full grade and the senior grade, shall be made only if there are vacancies in such grade. A grade in any category with respect to which such regulations have been issued is referred to in this section as a 'restricted grade.'

"(c) Examinations to determine qualification for permanent promotions may be either noncompetitive or competitive, as the Surgeon General shall in each case determine; except that examinations for promotions to the assistant or senior grade shall in all cases be noncompetitive. The officers to be examined shall be selected by the Surgeon General from the professional category, and in the order of seniority in the grade, from which promotion is to be recommended. In the case of a competitive examination the Surgeon General shall determine in advance of the examination the number (which may be one or more) of officers who, after passing the examination, will be recommended to the President for promotion; but if the examination is one for promotions based on length of service, or is one for promotions to fill vacancies other than vacancies in the director grade or in a restricted grade, such number shall not be less than 80 per centum of the number of officers to be examined.

"(d) Officers of the Regular Corps, found pursuant to subsection (c) to be qualified, shall be given permanent promotions based on length of service, as follows:

"(1) Officers in the junior assistant grade shall be promoted at such times as may be prescribed in regulations of the President.

"(2) Officers with permanent rank in the assistant grade, the senior assistant grade, and the full grade shall (except as provided in regulations under subsection (b)) be promoted after completion of three, ten, and seventeen years, respectively, of service in grades above the junior assistant grade; and such promotions, when made, shall be effective, for purposes of pay and pay period and for purposes of seniority in grade, as of the day following the completion of such years of service. An officer with permanent rank in the assistant, senior assistant, or full grade who has not completed such years of service shall be promoted at the same time, and his promotion shall be effective as of the same day, as any officer junior to him in the same grade in the same professional category who is promoted under this paragraph.

"(e) Officers in a professional category of the Regular Corps, found pursuant to subsection (c) to be qualified, may be given permanent promotions to fill any or all vacancies in such category in the senior assistant grade, the full grade, the senior grade, or the director grade; but no officer who has not had one year of service with permanent or temporary rank in the next lower grade shall be promoted to any restricted grade or to the director grade.

"(f) If an officer who has completed the years of service required for promotion to a grade under paragraph (2) of subsection (d) fails to receive such promotion, he shall (unless he has already been twice examined for promotion to

such grade) be once reexamined for promotion to such grade. If he is thereupon promoted (otherwise than under subsection (e)), the effective date of such promotion shall be one year later than it would have been but for such failure. Upon the effective date of any permanent promotion of such officer to such grade, he shall be considered as having had only the length of service required for such promotion which he previously failed to receive.

"(g) If, for reasons other than physical disability incurred in line of duty, an officer of the Regular Corps in the junior assistant grade is found pursuant to subsection (c) not to be qualified for promotion he shall be separated from the Service. If, for reasons other than physical disability incurred in line of duty, an officer of the Regular Corps in the assistant, senior assistant, or full grade, after having been twice examined for promotion (other than promotion to a restricted grade), fails to be promoted—

"(1) if in the assistant grade he shall be separated from the Service and paid six months' pay and allowances;

"(2) if in the senior assistant grade he shall be separated from the Service and paid one year's pay and allowances;

"(3) if in the full grade he shall be considered as not in line for promotion and shall, at such time thereafter as the Surgeon General may determine, be retired from the Service with retired pay (unless he is entitled to a greater amount by reason of another provision of law) at the rate of $2\frac{1}{2}$ per centum of his active duty pay at the time of retirement for each complete year, not in excess of thirty, of his active commissioned service in the Service.

"(h) If an officer of the Regular Corps, eligible to take an examination for promotion, refuses to take such examination, he may be separated from the Service in accordance with regulations of the President.

"(i) At the end of his first three years of service, the record of each officer of the Regular Corps originally appointed to the senior assistant grade or above shall be reviewed in accordance with regulations of the President and, if found not qualified for further service, he shall be separated from the Service and paid six months' pay and allowances.

"(j) (1) The order of seniority of officers in a grade in the Regular Corps shall be determined, subject to the provisions of paragraph (2), by the relative length of time spent in active service after the effective date of each such officer's original appointment or permanent promotion to that grade. When permanent promotions of two or more officers to the same grade are effective on the same day, their relative seniority shall be the same as it was in the grade from which promoted. In all other cases of original appointments or permanent promotions (or both) to the same grade effective on the same day, relative seniority shall be determined in accordance with regulations of the President.

"(2) In the case of an officer originally appointed in the Regular Corps to the grade of assistant or above, his seniority in the grade to which appointed shall be determined after inclusion, as service in such grade, of any active service in such grade or in any higher grade in the Reserve Corps, but (if the appointment is to the grade of senior assistant or above) only to the extent of whichever of the following is greater: (A) His active service in such grade or any higher grade in the Reserve Corps after the first day on which, under regulations in effect on the date of his appointment to the Regular Corps, he had the training and experience necessary for such appointment, or (B) the excess of his total active service in the Reserve Corps over three years if his appointment in the Regular Corps is to the senior assistant grade, over ten years if the appointment is to the full grade, or over seventeen years if the appointment is to the senior grade.

"(k) Any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for temporary promotion to fill a vacancy in any higher grade in such category, up to and including the director grade. In time of war, or of national emergency proclaimed by the President, any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for promotion to any higher grade in such category, up to and including the director grade, whether or not a vacancy exists in such grade. The selection of officers to be recommended for temporary promotions shall be made in accordance with regulations of the President. Promotion of an officer recommended pursuant to this subsection may be made without regard to length of service, without examination, and without vacating his permanent appointment, and shall carry with it the pay and allowances of the grade to which promoted. Such promotions may be terminated at any time, as may be directed by the President.

"(1) Whenever the number of officers of the Regular Corps on active duty, plus the number of officers of the Reserve Corps who have been on active duty for thirty days or more, exceeds the authorized strength of the Regular Corps, the Administrator shall determine the requirements of the Service in each grade in each category, based upon the total number of officers so serving on active duty and the tasks being performed by the Service; and the Surgeon General shall thereupon assign each officer of the Reserve Corps on active duty to a professional category. If the Administrator finds that the number of officers fixed under section 209 (c) for any grade and category (or the number of officers, including officers of the Reserve Corps, on active duty in such grade in such category, if such number is greater than the number fixed under section 209 (c) is insufficient to meet such requirements of the Service, officers of either the Regular Corps or the Reserve Corps may be recommended for temporary promotion to such grade in such category. Any such promotion may be terminated at any time, as may be directed by the President.

"(m) Any officer of the Regular Corps, or any officer of the Reserve Corps on active duty, who is promoted to a higher grade shall, unless he expressly declines such promotion, be deemed for all purposes to have accepted such promotion; and shall not be required to renew his oath of office, or to execute a new affidavit as required by the Act of December 11, 1926, as amended (5 U. S. C. 21a)."

(b) Except as provided in subsection (d) of this section, no promotion shall be made under section 210 of the Public Health Service Act, as amended by this Act, prior to January 1, 1948. Until that date officers of the Regular Corps may receive temporary promotions to higher grades with the pay and allowances thereof pursuant to section 210 (a) (1) of the Public Health Service Act, in force prior to the enactment of this Act, notwithstanding the termination, prior to such date, of the war and of the national emergencies proclaimed by the President.

(c) Effective as of the date of the enactment of this Act, each medical or dental officer of the Regular Corps on such date, in addition to the credit he has under preexisting legislation for purposes of promotion, shall be credited with three and five-twelfths years of service in the case of a medical officer and three and one-twelfth years of service in the case of a dental officer.

(d) Officers of the Regular Corps who have, or who on or before January 1, 1948, will have, the years of service prescribed in paragraph (2) of section 210 (d) of the Public Health Service Act, as amended by this Act, for promotion to the senior assistant, full, or senior grade, shall be recommended to the President for such promotion, to be effective as of January 1, 1948, without examination and whether or not vacancies exist in such grade; but no such promotion shall be made to any grade in any professional category if such grade has been made a restricted grade pursuant to subsection (b) of section 210 of the Public Health Service Act, as amended by this Act. For purposes of seniority an officer promoted under this subsection shall be credited with the years of service in the grade to which promoted equal to the excess of his years of service on the date of promotion over the years of service required for promotion to such grade under paragraph (2) of section 210 (d) of the Public Health Service Act, as amended by this Act.

(e) For purposes of seniority, any officer of the Regular Corps of the Public Health Service on the date of enactment of this Act shall be considered as having had service in the grade which he holds on such date equal to the excess of the service credited to him for promotion purposes over the length of service required under section 210 (d) (2), as amended by this Act, for promotion to such grade.

(f) Except as provided in subsection (d) of this section, the provisions of this section shall not, prior to January 1, 1948, affect the term or tenure of office (including any office held under temporary promotion) of any commissioned officer of the Service in office upon the date of the enactment of this Act.

SEC. 7. (a) The first sentence of subsection (b) of section 211 of such Act is amended to read: "A commissioned officer shall be retired on the first day of the month following the month in which he attains the age of sixty-four years; and a commissioned officer may be retired by the Administrator, and shall be retired if he applies for retirement, on the first day of any month after completion of thirty years of active commissioned service in the Service."

(b) Paragraph (2) of subsection (c) of such section is amended to read:

"(2) The retired pay to which an officer, who has served four years or more as Surgeon General, Deputy Surgeon General, or Assistant Surgeon General, is

entitled shall be based on the pay of the highest grade held by him as such Surgeon General, Deputy Surgeon General, or Assistant Surgeon General."

(c) Subsection (d) of such section is amended by changing the words "for age" to "under the provisions of subsection (b)."

(d) Section 211 of such Act is further amended by adding at the end thereof the following new subsections:

"(g) An officer of the Regular Corps in the senior assistant grade in a category in which the full grade is a restricted grade, who has had twenty years of active commissioned or noncommissioned service in the Service (including any active Federal service in the armed forces) or has attained the age of fifty, or an officer of the Regular Corps in the full grade in a category in which the senior grade is a restricted grade, who has had twenty-five years of such service or has attained the age of fifty-five, may be retired in accordance with regulations of the Administrator if he has not been found pursuant to section 210 (c) to be qualified for promotion to the full grade or the senior grade, as the case may be. The retired pay of any such officer shall be at the rate of 2½ per centum of his active-duty pay at the time of retirement for each complete year, not in excess of thirty, of such service.

"(h) Retired pay pursuant to this section shall be terminated if the officer receiving such pay is recalled to active duty or, in the case of an officer of the Reserve Corps, if he is found to have recovered from his disability. Such pay shall be suspended for any period during which an officer fails without good cause to comply with a request by the Surgeon General that he submit to a medical examination, and shall be terminated if such failure continues for six months.

SEC. 8. Title II of such Act is further amended by adding at the end thereof the following new section:

"TRAINING OF OFFICERS

"SEC. 218. (a) Appropriations available for the pay and allowances of commissioned officers of the Service shall also be available for the pay and allowances of any such officer on active duty in the Regular Corps while attending any educational institution and, subject to regulations of the President and to the limitation prescribed in such appropriations, for payment of his tuition fees, and other necessary expenses incident to such attendance.

"(b) Any officer whose tuition and fees while attending an educational institution are paid pursuant to subsection (a) shall be obligated to reimburse the Service for such tuition and fees if he voluntarily leaves the Service within two years after the cessation of such attendance."

SEC. 9. (a) Section 706 of the Act of July 1, 1944 (58 Stat. 682, 713), as amended, is amended to read:

"SEC. 706. In the case of any commissioned officer of the Service appointed prior to July 1, 1944, there shall be included, in determining the amount of retired pay pursuant to subsections (b) or (c) (1) of section 211, and in determining whether he should or may be retired pursuant to such subsection (b), noncommissioned service in the Public Health Service, as well as all commissioned service."

(b) Title VII of such Act is amended by renumbering sections 711 and 712 as sections 714 and 715, respectively, and by inserting immediately after section 710 the following new sections:

"APPOINTMENTS TO HIGHER GRADES FOR MENTAL HEALTH AND HOSPITAL CONSTRUCTION ACTIVITIES

"SEC. 711. Twenty officers may be appointed to grades in the Regular Corps of the Service above that of senior assistant, but not to a grade above that of director, to assist in carrying out the purposes of this Act with respect to mental health and twenty officers may be appointed to such grades in the Regular Corps to assist in carrying out title VI of this Act. Officers appointed pursuant to this section in any fiscal year shall not be counted as part of the 10 per centum of the original appointments authorized to be made in such year under section 207 (b); but they shall for all other purposes be treated as though appointed pursuant to such section 207 (b). The twenty officers authorized by this section to be appointed to carry out the purposes of this Act with respect to mental health and the twenty officers so authorized to be appointed to carry out title VI shall be reduced by the number of officers appointed under clause (A) and the number appointed under clause (B), respectively, of section 208 (b) (2) of this Act, in effect prior to the enactment of this section.

"MUSTERING-OUT PAY

"SEC. 712. The exclusion from full military benefits, in paragraph (1) of subsection (a) of section 212 of this Act, of the benefits of the Mustering-Out Payment Act of 1944 shall not be applicable to any officer who has been separated from the commissioned corps of the Service or relieved from active duty therein prior to the enactment of this section, or who is so separated or relieved from active duty within three years after the termination of the present war as proclaimed by the President. For purposes of section 212 (a) (2) of this Act, the benefits of such Mustering-Out Payment Act shall be deemed to be veterans' benefits.

"CERTAIN RETIREMENTS FOR DISABILITY

"SEC. 713. An officer of the Reserve Corps of the Public Health Service who was separated from the Service or returned to inactive status by reason of a disability incurred in line of duty after December 6, 1941, and prior to July 1, 1944, and who would have been eligible for retirement by reason of such disability if section 211 of the Public Health Service Act had been in effect on and after December 7, 1941, shall be considered as though he had been retired at the time of such separation or return to inactive service. Any such officer, and any other officer of the Reserve Corps retired for a disability which was incurred in line of duty after December 6, 1941, and prior to July 1, 1944, shall be entitled, for periods both before and after the date of the enactment of this section, to the same retired pay to which he would have been entitled if such section 211, as amended simultaneously with the enactment of this section, had been in effect on and after December 7, 1941."

Mr. DOLLIVER. That is a bill of particular interest to the Public Health Service.

I recognize this is rather an inopportune afternoon to hold a hearing; so to reassure myself, as well as the rest of the people in the room, we will adjourn at 3:30, because some of you may have something to do, and I myself have a train to catch. If we are not completed at that time, the clerk of the committee can arrange for a continuance of the hearings at some later time.

The first witness is Dr. Thomas Parran, Surgeon General of the Public Health Service, and we will be glad to have your statement, doctor.

STATEMENT OF DR. THOMAS PARRAN, SURGEON GENERAL, PUBLIC HEALTH SERVICE, ACCOMPANIED BY DR. W. PALMER DEARING, CHIEF, DIVISION OF COMMISSIONED OFFICERS, AND DR. JAMES A. CRABTREE, DEPUTY SURGEON GENERAL, PUBLIC HEALTH SERVICE, WASHINGTON, D. C.

Dr. PARRAN. Thank you, Mr. Chairman. I appreciate the opportunity you have given me to appear before you in connection with the proposed amendment to the Public Health Service Act.

Through many enactments over the years, Congress has followed the policy of keeping the commissioned corps of the Public Health Service on a par as regards rates of pay and promotion with the Army and Navy. Our basic law, Public Law 410, Seventy-eighth Congress, provides specifically that Public Health Service officers shall be promoted after the same length of service as officers of the Medical Corps of the Army. The Army promotion bill (H. R. 3830) recently passed by the House would so alter the Army system that the Public Health Service would be unable to make permanent promotions if the Army bill were enacted.

I would refer to the fact that our proposed amendments encompass about 26 pages. They may seem rather complicated, but in that con-

nection I would emphasize the fact that they are designed to provide for this very small commissioned corps of the Public Health Service the same policies as regards promotion contained in H. R. 3830 of some 303 pages.

Our lawyers, with the assistance of the Budget Bureau, have done the best they possibly could to simplify this bill, but I confess that it is difficult to read, without reading together with it the original provisions of the Public Law 410, as well as understanding the provisions of H. R. 3830, which the House of Representatives has passed.

MR. DOLLIVER. What is the status, doctor, if you can tell us, of H. R. 3830, or similar legislation in the Senate?

DR. PARRAN. May I ask Dr. Dearing to tell us whether hearings have been called.

DR. DEARING. Hearings had been scheduled for this work by the Senate Armed Services Committee. The staff informs me that they had to postpone them. They will probably be held next week.

MR. DOLLIVER. Thank you.

DR. PARRAN. H. R. 3924 encompasses the technical amendments to the Public Health Service Act which would place the Service on a parity with the new system proposed for the Army. It would prescribe the same minimum rates of promotion (3, 10, and 17 years to the grades equivalent respectively to captain, major, and lieutenant colonel) and would authorize these promotion rates to be accelerated when vacancies occur in higher grades.

I think you will agree that it is not unreasonable for a man to attain the grade of major after 10 years of service, particularly when you recall that prior to his entrance into the Service, after completing high school, he had 4 years of college, 4 years in medical school, and 1 year of internship. In other words, it is 19 years after the boy leaves high school before, under this rate of promotion, he would attain the rank of major.

Authorized numbers in grade would be prescribed by the Administrator when appropriations are made. Temporary promotions would also be authorized to fill vacancies.

To enable the Public Health Service to follow the provisions of the Army-Navy Nurse Act of 1947, which limits automatic promotion of nurses to the grade of captain, the bill authorizes the President to establish similar limits for the Public Health Service. The bill also follows present Army practice in authorizing retirement after 30 years of service and permits the Administrator by regulation to prescribe the same retirement for nurses as is authorized by the Army-Navy Nurse Act.

MR. PRIEST. I would like to ask you if you mean there that this limit of captain would be confined to nurses in the Public Health Service.

DR. PARRAN. That is correct.

MR. PRIEST. Only to nurses on that limitation.

DR. PARRAN. Yes, sir. That is a limitation under our present law, but I think the nurses are willing to accept the limitation, because the Army and Navy Nurses Act has a comparable limitation.

The Congress has given the Public Health Service important new duties—Hospital Survey and Construction Act, Mental Health Act, expanded cancer control, and expanded research programs. We find it difficult to secure the needed medical and other officers. During the past year, we have dropped from 75 percent to 60 percent of our re-

quired medical officer strength. We have 40 percent vacancies of the officers on duty, and 25 percent of them are loaned to us, in effect, from the Army, from their pool of ASTP graduates, who are required to serve the Government for 2 years. A considerable number of these boys have elected to serve the Public Health Service in lieu of serving in the Army or Navy, and except for this temporary supply, we would need to close many of our hospitals and curtail drastically our other activities.

I would point out, Mr. Chairman, that this bill does not by any means solve the full personnel problem of the Service. It only would maintain us on a parity with the Army.

In that connection I have been extremely gratified by the action of the House Armed Services Committee in reporting out the pay-inducement bill covering the pay of doctors and dentists.

Many additional officers are remaining in the Service only in the hope of some improvement in their status in competition with opportunities in universities, industry, and practice. The steady deterioration of our personnel situation would be accelerated with catastrophic results if these amendments maintaining parity with the other services are not enacted.

Let me describe to you briefly how the proposed system would work. In doing so I shall not take up the bill section by section, as we have a detailed analysis, rather extended, on that basis, but I shall try to take up the different functional aspects of the bill, and if you wish, I can explain in more detail.

1. Proportions in grade:

(a) The Administrator would be authorized to establish at the beginning of each fiscal year the percentages of Regular Corps officers in various grades after consideration of needs of the Service, funds available, numbers who will become eligible for promotion due to completion of years' service, anticipated retirements, et cetera. (Proposed section 206 (d), beginning page 3 line 17.)

(b) The Surgeon General would divide the officers into professional categories. He would decide the numbers of scientists, nurses, and doctors that are needed, and would establish numbers in grade for the various professional categories within the over-all totals established by the Administrator. (Proposed section 209 beginning page 9 line 6.)

(c) The percentages prescribed by the Administrator would be applicable also to the Reserve Corps as a basis for determining vacancies for which temporary promotions may be made. (Proposed section 210 (1) beginning page 18 line 1.)

These provisions follow the proposed Army system except that for the Army, the Congress prescribes the categories and the over-all percentages in grade instead of the Administrator and Surgeon General. H. R. 3830 requires that the Secretary in allocating percentages of officers in the various grades among the various corps may not exceed for any corps the over-all percentages prescribed for the entire Army as follows: Colonels, 8 percent; Lieutenant Colonels, 14 percent; Majors, 19 percent; Captains, 23 percent; 1st and 2d Lieutenants, 18 percent each. For the medical and dental corps, which have no officers in the grade of 2d lieutenant, this means 36

percent of the grade of 1st lieutenant. For a small corps such as the Public Health Service, the fixing of proportions in respective grades by permanent law would make effective administration extremely difficult.

I would point out that in the Foreign Service Act of 1946, the Congress authorized the State Department to determine from time to time the proportion of officers needed in the various grades.

In any case the requirement such as is now imposed on the Medical Corps of the Army of 36 percent in the grade of 1st lieutenant would provide an unworkable distortion to the Public Health Service Commissioned Corps.

MR. DOLLIVER. With respect to this distribution, and the percentages thereof, this bill does not precisely follow the Army bill.

DR. PARRAN. That is correct, and there will be a number of instances where the Army language is inapplicable to us because the Army bill relates to the enlisted men, enlisted strength, while we have no enlisted men.

MR. DOLLIVER. Does this bill give the Public Health Service absolute discretion or is there discretion within limits?

DR. PARRAN. There is discretion within limits of appropriations for the Administrator to determine the numbers needed in the various grades, and of course the Appropriations Act which now limits the total number of officers similarly could provide such a limitation on grades if at any time it was felt that the Public Health Service was getting out of line.

2. Promotions:

(a) Regardless of vacancies, promotion from junior assistant grade (2nd lieutenant) would be subject to Presidential regulations. (Proposed section 210 (d) (1) beginning page 13 line 4.) These regulations would provide that promotions would be made when the officer qualified for original appointment in the next highest grade.

(b) Regardless of vacancies, permanent promotions in the Regular Corps to senior assistant (captain), full (major) and senior grades (lieutenant colonel) would be authorized after 3, 10 and 17 years of service, unless the officer fails promotion examination, in which case he may be reconsidered after one year (proposed section 210 (d) (2) and (f) beginning page 13 line 7, and page 14 line 5 respectively) provided that the President may limit promotions within any professional category to vacancies in and above the full (major) grade. (Proposed section 210 (b) beginning page 12 line 1.)

(c) When vacancies exist in the senior assistant (captain) full (major), or senior (lieutenant colonel) grades, officers may be considered for permanent promotion in order of seniority in advance of completion of years' service (proposed section 210 (e) beginning page 13 line 21) or may be given temporary promotions. (Proposed section 210 (k) beginning page 17 line 7.)

(d) Officers twice failing examination for promotion to senior assistant (captain), full (major), or senior (lieutenant colonel) grades, are to be separated or retired. (Proposed section 210 (g) beginning page 14 line 17.)

(e) Officers will be eligible after one year in the senior (lieutenant colonel) grade for examination for promotion to director (colonel)

grade; eligible officers who are found qualified by examination will be promoted in order of seniority as vacancies occur. (Proposed section 210 (e) beginning page 13 line 21.)

Mr. PRIEST. That paragraph (d) provision, that is exactly the same as in the recent promotion bill for the Army and Navy.

Dr. PARRAN. That is correct. I think throughout this analysis all of these provisions are identical with the Army or in cases where they are not, we point out the divergence.

(f) An officer originally appointed above assistant (1st lieutenant) grade would receive promotion credit for total active commissioned service in and above the grade to which appointed instead of a maximum of 10 and 14 years for senior assistant and full grades as provided in present law. (Proposed section 207 (d) (3) beginning page 7 line 1.)

These provisions conform to those provided for the Army in H. R. 3830, except for (f) which is a revision of the Public Health Service promotion credit on entrance, required by the changed promotion schedule.

3. Special promotion credit would be authorized for medical and dental officers in the Regular Corps on date of enactment in the amount of 3 years 5 months medical and 3 years 1 month dental. (Section 6 (c) beginning page 19 line 13.)

4. Retirement would be mandatory at age 64 and optional with either the officer or the Administrator after completion of 30 years' service (section 7 (a) amending sec. 211, beginning page 21 line 3).

5. Effective date would be January 1, 1948, at which time all officers in the Service would be promoted in accordance with the new time schedule and credited appropriate additional service in the new grades. (Section 6 (d) beginning page 19 line 20.)

Mr. DOLLIVER. As to that effective date, is that the same as in the Army bill?

Dr. PARRAN. Dr. Dearing, will you state?

Dr. DEARING. The Army bill provides that the promotions which would result automatically from the new schedule should be made on January 1.

Mr. DOLLIVER. Thank you, Dr. Dearing. Proceed.

Dr. PARRAN. 6. General Officers.

(a) The Surgeon General with approval of Administrator would be authorized to create special temporary positions in the grade of Assistant Surgeon General, but the total when added to 8 permanent positions authorized by law would not exceed three-fourths of 1 percent of officers on active duty. Present law authorizes 3 such additional positions but only in time of war or national emergency. (Proposed section 205 (c) beginning page 2 line 3.)

(b) The Deputy Surgeon General would hold rank equivalent to major general: Assistant Surgeons General would hold rank either of brigadier general or major general as determined by the Administrator, but not more than half would be majors general. Major general rank for the three bureau chiefs would be contemplated under this provision. (Section 4 (a) beginning page 2 line 18.)

I might say that there is nothing in this bill which affects the pay or allowances of the Surgeon General.

These provisions differ from those of H. R. 3830 for the Medical Department of the Army in that (a) no permanent general grade positions would be established for the Public Health Service, (b) the authorized number of general grade positions for the Public Health Service would be based on active duty strength rather than on authorized strength, (c) there would be authorized three-fourths of 1 percent in the general officer grade for the Public Health Service in comparison with one-half of 1 percent for the Army Medical Department.

The three-fourths of 1 percent is required because the Public Health Service administers its entire operation whereas in the Army many services are provided for the Medical Department such as the Quartermaster, Adjutant General, G-1 (personnel), et cetera. Also, the Public Health Service operation is more diverse than that of the Medical Department of the Army, and additional high-ranking officers are needed.

In addition to the provisions which revise the Public Health Service promotion system, certain other amendments are included.

Initial appointments to advanced grades (above that of captain) are authorized for not to exceed 10 percent of such appointments. This would incorporate in permanent law what has in effect been authorized from time to time in annual appropriation language (proposed section 207 (b) beginning page 5 line 1), and I should say also authorized in several recent enactments of the Congress. Mr. Priest will recall that in the mental-health bill a considerable number of officers in the higher grade were authorized, and in the Hospital Survey and Construction Act also, and in addition, the appropriations bill which passed the Congress yesterday carries authorization for added numbers.

This is merely to regularize and to establish what seems to be a reasonable continuing percentage of vacancies which should be filled by persons expert in one or another field, who need to be brought in at grades higher than that of captain.

Longevity pay credit would be adjusted for certain officers appointed in the Public Health Service in the grade of senior assistant (captain) or above. (Section 5 (e) beginning page 7 line 22.)

Tuition is authorized for regular officers while attending educational institutions—subject to Presidential regulations and appropriations language. (Proposed section 218 beginning page 23 line 2.)

Public Law 410 authorizes the Public Health Service to assign its regular officers to educational institutions for the purpose of study. However, Mr. Priest, in Public Law 410 we overlooked the item of tuition, and now we have no way of paying the tuition unless we beg money from philanthropic sources to pay it, and so forth. This is relatively a small item. The number of men in such postgraduate schools is four or five or six; in past years there have been as many as twenty. The tuition would be from \$500 down, depending upon the type of course and educational institution.

Mr. PRIEST. It is always likely to be a limited number?

Dr. PARRAN. Definitely. We are so short of personnel we can give hardly any additional training to men, although if we could, it would strengthen us for the tasks in the years ahead.

Isonipecaïne is added to the list of habit-forming drugs. (Section 1, page 1, line 3.)

This drug is known as demerol. It is definitely habit forming. The Surgeon General has the responsibility of certifying to the Commissioner of Narcotics the amount of narcotic drugs needed in the country, and we are authorized to treat narcotic addicts in hospitals.

Mr. DOLLIVER. At that point, may I inquire if your attention has been called to the letter of July 3rd of the Treasury Department concerning this particular section?

Dr. PARRAN. I should like to refresh my memory, if I may.

Mr. DOLLIVER. If that has not been called to your attention, just pass it for the time being.

Dr. PARRAN. It had not been called to my attention.

Mr. DOLLIVER. We will come back to it later.

Dr. PARRAN. Mustering-out pay is authorized on a parity with other armed forces. (Proposed section 712, beginning page 24, line 25.)

Estimated cost for next year is approximately \$700,000 of which \$200,000 is for retroactive retirement pay of Reserve Corps officers disabled during wartime and \$400,000 is for mustering-out pay of junior officers who have already left the Service. These two items are non-recurring. Of the remaining \$100,000, \$25,000 is for mustering-out pay which will be continued only for two or three years. Only \$75,000 represents a continuing cost, which is about 1 percent of the present appropriation of \$7 million for pay of commissioned officers. Of this, \$50,000 is required for continuing retirement pay of 23 disabled Reserve Corps officers, the cost of which will gradually decrease as these officers die. The remaining \$25,000 covers the cost of optional thirty-year retirement, adjusted longevity credit and other minor items. The pay of officers under the new promotion schedule will be no more than at present with temporary promotions in effect.

There were some typographical drafting errors, three, in fact, which are explained here in detail, and I shall read them, or with your permission, ask to insert them in the record.

Mr. DOLLIVER. If they are merely typographical errors, we can save time by inserting them in the record.

Dr. PARRAN. Yes.

Attached are six proposed amendments which correct drafting errors in H. R. 3924. We understand that the Senate Committee on Labor and Public Welfare has no objection to them.

1. On page 2, line 2, change "subsections" to "subsection", and in line 25, change comma after the word "allowances" to period.

Comment: These are simply two typographical corrections.

2. On page 3, lines 5 to 10, change the proviso to read as follows:

Provided, That the number of Assistant Surgeons General having a grade higher than that corresponding to the grade of brigadier general shall at no time exceed one-half of the number of positions created by subsection (b) of section 205 or pursuant to subsection (c) of such section.

Comment: The suggested change makes clear that only the number of Assistant Surgeons General is to be considered in applying the limitation that not more than one-half of such positions shall be in the grade of major general. As H. R. 3924 now stands, the positions

of Surgeon General and Deputy Surgeon General, whose grades are prescribed in the law, would also be charged against the 50 percent in major general rank. It is contemplated that under this proviso the three chiefs of operating bureaus would be accorded major general rank while so serving.

3. On page 8, after line 23, add new subsection (g) to read:

Subsection (b) of the section herein redesignated as section 208 is amended to read: "(b) Reserve officers, except when otherwise provided by law, shall receive the same pay and allowances when on active duty as commissioned officers of the Regular Corps, including allowances for travel and transportation of household goods and effects."

On line 24, page 8, and line 3 of page 9, redesignate subsections (g) and (h) of section 5 of the bill as subsections (h) and (i), respectively.

Comment: This amendment will be necessary if H. R. 3851 amending the Joint Pay Act is enacted into law. It was originally proposed by Deputy Surgeon General Crabtree in testifying before the House Armed Services Committee on H. R. 3851. Inasmuch as H. R. 3851 is an amendment to the Pay Readjustment Act of 1942, the proposed amendment to the Public Health Service Act was not included, and it seems proper to add it here. This amendment would permit the Public Health Service to follow the practice contemplated by the Army and the Navy in regard to medical officers who received their training at Government expense and are thereby obligated to serve for two years. These officers are not to receive the supplemental pay provided by H. R. 3851 while serving out their agreed time. They must, however, qualify for the supplemental pay by entering the Regular Corps of one of the services.

4. On page 9, after line 5, insert a new line "Professional Categories."

Comment: This conforms to the practice in the act of providing a title for each section.

5. On page 23, change line 20 to read "to subsection (c) (1) of section 211, and in de—"

Comment: This is a technical amendment to delete an incorrect reference which does not apply to the subject matter.

6. On page 23, lines 24 and 25, change wording of first sentence of section 9 (b) to read: "(b) Title VII as such act is amended by changing sections 711 and 712 and references thereto, to sections 714 and 715, respectively."

Comment: This is a technical amendment to correct a reference as a result of renumbering.

Mr. DOLLIVER. Does that complete your statement?

Dr. PARRAN. That completes my statement.

Mr. DOLLIVER. Do you have any questions, Mr. Priest?

Mr. PRIEST. I do not believe I have, Mr. Chairman. Dr. Parran, I think, has presented a very concise and effective statement on the need of the legislation and the provisions of the legislation. I do not believe there are any particular questions I have at this time.

You believe, Doctor, that it is extremely important that this legislation be passed at an early date?

Dr. PARRAN. It is urgent, Mr. Priest, because if the Army bill, H. R. 3830, becomes law, as all of us hope and expect that it will, the lan-

guage which your subcommittee developed for Public Law 410 would not have any meaning as regards permanent promotions.

Mr. PRIEST. That was my feeling. I think that is all.

Mr. DOLLIVER. It is fair to say, is it not, that this proposed legislation in behalf of which you are appearing will have the result of conforming the law governing the Public Health Service to the law recently passed by the House with regard to the medical services of the Army and the Navy?

Dr. PARRAN. That is correct. This would provide one of two things; where the Army law seems applicable, the provision is identical; where the Army law is not applicable, then there is an equivalent position.

I should say, too, for the information of the committee, that the Budget Bureau has been particularly anxious to see that parity is maintained, or even shall I say that the Public Health Service does not get any benefits which the Army and Navy do not have. As the result, this draft was considered in great detail by the Budget Bureau with that in view.

I am afraid that a little earlier I made a slight mistake. I said that these three amendments I had were drafting or typographical errors. I draw attention to the item No. 3 on the bottom of the page which would read:

Reserve officers, except when otherwise provided by law, shall receive the same pay and allowances when on active duty as commissioned officers of the Regular Corps.

This is a limiting amendment and is designed to exclude from the benefits of 3851 which would amend the Joint Pay Act, those physicians and dentists who are trained at Government expense—the ASTP's. The House Armed Services Committee decided in considering 3851 that it was not fair to give the \$100 a month extra pay to officers who had been trained in part at Government expense.

Mr. PRIEST. This clause "except when otherwise provided by law" refers to the provision of the law which prohibits the paying of that amount to these men trained at Government expense.

Dr. PARRAN. That is correct. It is a limiting amendment designed to exclude from the additional \$100 pay which is pending, the boys who were educated at Government expense.

Mr. DOLLIVER. You are accompanied by Dr. Dearing and Dr. Crabtree. Do either of those gentlemen wish to make statements?

Dr. PARRAN. Dr. Crabtree, have you any statement to make?

Dr. CRABTREE. I have not anything to state.

Dr. PARRAN. Dr. Dearing?

Dr. DEARING. No.

Mr. DOLLIVER. I referred earlier to a letter we received from the Secretary of the Treasury regarding I believe it is section 1, referring to opiates, in the bill. You said you had not had an opportunity to examine it. Perhaps while we are hearing some of the other witnesses you can look it over and make such comments as you see fit.

The list of witnesses next refers to Mr. Lawrence L. Gourley.

I see our colleague, Mr. Arnold in the room, and congressional courtesy requires that we find out if he has something to say. If he does, we will be glad to hear from him.

**STATEMENT OF HON. WAT ARNOLD, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF MISSOURI**

Mr. ARNOLD. I have a statement, Mr. Chairman.

I hope this committee will write an appropriate provision into this bill, H. R. 3924, to make it clear that doctors trained in osteopathic schools and hospitals are qualified under the law to serve as medical officers in the United States Public Health Service.

The first school of osteopathy was established more than fifty years ago at Kirksville, Mo., in the congressional district I have the honor to represent. That institution is known as the Kirksville College of Osteopathy and Surgery. It is one of the most respected institutions in the United States. Its student body come from all over the country. I venture to say that its alumni are practicing in each of the 48 States, and some foreign countries.

The college hospital was designated by the Federal Government as a penicillin depot and a streptomycin depot during the war. The college and hospital are recognized for and are training veterans. They are recognized for training doctors to work for the Veterans' Administration. I see no reason why they should not be recognized for training doctors to work for the Public Health Service. The county health officer for my county is an osteopathic physician.

The United States Public Health Service, itself created by Congress, now says that it cannot get enough doctors to carry out the duties Congress has assigned to it. The Public Health Service has asked Congress to provide additional ways and means. Yet they continue to turn down applications from qualified doctors trained in osteopathic colleges and hospitals. I understand the Public Health Service has suggested raises in pay for doctors as a partial solution. Congress should leave nothing undone which could be helpful in obtaining the necessary doctors. At the same time, the Public Health Service ought to avail itself of every qualified source of supply.

A declaration by Congress that osteopathic graduates shall be eligible to qualify as medical officers in the Service will certainly evidence the intention that the Public Health Service shall explore and avail itself of the qualified and available manpower resources of the osteopathic school of medicine. I hope such a declaration can be made a part of this bill.

Mr. DOLLIVER. The next witness is Mr. Lawrence L. Gourley, legal counsel, American Osteopathic Association, Washington, D. C.

Mr. Gourley, we will be glad to hear from you.

**STATEMENT OF LAWRENCE H. GOURLEY, LEGAL COUNSEL, AMERICAN
OSTEOPATHIC ASSOCIATION, WASHINGTON, D. C.**

Mr. GOURLEY. We appreciate this opportunity of making a statement before this committee.

I am legal counsel for the department of public relations of the American Osteopathic Association, and appear here at the instance of the chairman of that department, Dr. Chester D. Swope.

This bill, H. R. 3924, amends the Public Health Service Act in a number of particulars in matters of personnel and administration.

Section 203 of the act deals with the Commissioned Corps of the Public Health Service, and section 2 of this bill proposes to amend that section.

Our purpose is to suggest an additional amendment to section 203 of the act by adding immediately following the fourth sentence thereof a new sentence to read:

Graduates of accredited colleges of osteopathy who have completed internship in accredited hospitals shall be eligible for appointment as commissioned medical officers in the Service.

There is at present, but not for long, a provision in the Public Health Service Act which expressly makes osteopathic graduates eligible for appointment as Reserve officers in the Service. That provision, section 709 of the act of July 1, 1944, as renumbered by the act of August 13, 1946, reads as follows:

For the duration of the present war and for six months thereafter graduates of reputable colleges of osteopathy shall be eligible for appointment as Reserve officers in the Service.

That provision making osteopathic graduates eligible for Reserve appointments was first a part of section 4 of the Public Health Service Act of 1943, Public Law 184, 78th Congress. When the Public Health Service laws were consolidated and revised as the Public Health Service Act, Public Law 410, 78th Congress, that provision was incorporated under temporary provisions as section 609, and the section was renumbered to become section 709 by Public Law 725, 79th Congress.

When that temporary provision was before Congress in 1943 and 1944, the American Osteopathic Association appeared and offered supportive testimony before the House Committee on Interstate and Foreign Commerce and the Senate Committee on Education and Labor. All the testimony recorded in the hearings with respect to the provision indicated that the eligibility was for appointments as medical officers. All our negotiations with the Public Health Service regarding implementing regulations between the approval of Public Law 184 on November 11, 1943, and the approval of Public Law 410 on July 1, 1944, were based on eligibility as medical officers. At no time was there any indication that the law meant otherwise. We certainly understood that it meant medical officers and we believe that Congress so intended but we were wrong; it meant sanitarians.

Osteopathic candidates made their applications for appointment as medical officers. They were denied appointment as medical officers and offered commissions as sanitarians. The candidates asked the American Osteopathic Association for advice. The candidates had been trained as physicians in osteopathic schools of medicine. The act of Congress respecting eligibility as Reserve officers had been construed as eligibility as sanitarians in the Reserve. The President had been authorized to declare the Public Health Service a military organization in time of war, which he later did. The association advised the candidates that this being a war measure, they should accept the commission as sanitarians for the emergency. Five osteopathic physicians were commissioned in the grade of sanitarian, and so served. The war emergency being over, they have now returned to civilian practice.

It now appears that there is dire need for medical officers in the Public Health Service. The Surgeon General has emphasized that

need this afternoon. The Deputy Surgeon General of the Public Health Service, Dr. James A. Crabtree, so testified before the House Armed Services Committee on June 6, 1947. In the same hearing, Honorable Watson Miller, Federal Security Administrator, stated:

The steadily increasing shortage of physicians in the Public Health Service is a matter of great concern to me.

Evidence submitted at that time showed that the Public Health Service operates 27 hospitals; that it operates hospitals and medical installations at all Federal prisons; that it provides medical and hospital care for the Coast Guard and for the merchant marine; and that it provides medical and hospital care for beneficiaries of the Federal Employees' Compensation Act. That is only a part of the functions of the Public Health Service in which the professional services of physicians are employed.

In view of the fact that education and training in institutions of the osteopathic school of medicine closely parallel that afforded in institutions of the allopathic and homeopathic schools of medicine, and the further fact that in a number of States osteopathic candidates and medical candidates take the same State board examinations and receive the same or equivalent license to practice, surely the skills of osteopathic graduates can and ought to be utilized as medical officers, thereby contributing to the relief of the dire shortage of medical officers in the service.

It may be contended that there is nothing in the Public Health Service Act which prevents the President from appointing osteopathic graduates as medical officers in the service. That is true, but neither is there anything in the act which expressly indicates osteopathic eligibility.

We contend that such an expression of intent is necessary, as proposed in our amendment.

In 1930, Congress passed a law with respect to Public Health Service regulations stating:

No regulation relating to qualifications for appointment of medical officers or employees shall give preference to any school of medicine.

That provision is now incorporated as section 215 (c) of the Public Health Service Act.

Gould's Medical Dictionary defines osteopathy as—

A school of medicine based upon the theory that the body is a vital organism whose structure and function are coordinate and that disease is perversion of either, while its therapeutics is largely manipulative restoration of these abnormalities.

Dr. Walter J. Greenleaf, specialist, Occupational Information and Guidance Service, U. S. Office of Education, in his guidance leaflet on osteopathy, states:

Osteopathy is the school of medicine or the art and science of prevention, diagnosis, and treatment of diseases and injury which majors in manipulation and includes surgery and other branches (specialties) of the healing arts.

If permissible, I should like to include in the record, at this point, an excerpt from that leaflet descriptive of the preosteopathic college credits required and standard minimum curriculum of approved osteopathic colleges.

Mr. DOLLIVER. May I examine that, what you wish to insert?

Mr. GOURLEY. Yes, sir; beginning there and ending there.

Mr. DOLLIVER. Your request for the insertion will be granted at the point indicated.

Mr. GOURLEY. Thank you.

(Excerpt from the leaflet reads as follows:)

PREOSTEOPATHIC COLLEGE CREDITS REQUIRED

The minimum of two standard years (60 semester hours or an equivalent number of quarter hours) of successful preosteopathic college study required for entrance to the approved osteopathic colleges is 50 percent (one-half) of the total number of academic credits required for the conferment of the baccalaureate degree in arts or sciences in an approved college of liberal arts and sciences.

All osteopathic colleges require that the preosteopathic college study include credits in specified subjects, including chemistry, biology, physics, and English, and, in some cases, others. The number of specified preosteopathic credits required by the different osteopathic colleges vary, as in other schools of medicine, but range from a minimum of 30 semester hours in one college to 46, plus 4 in physical education and health activities for students from its own State, in another.

All osteopathic colleges recommend, also, that certain subjects be included in preosteopathic college electives, and the laws governing licensure and practice in some States require that a modern foreign language be included.

STANDARD MINIMUM CURRICULUM OF APPROVED OSTEOPATHIC COLLEGES

The standard minimum curriculum in the approved osteopathic colleges, as arranged by the Bureau of Professional Education and Colleges of the American Osteopathic Association and the American Association of Osteopathic Colleges and adopted by the board of trustees, requires at least 4,000 hours over the standard four college years. Each year must have a minimum of 1,000 hours.

The subjects as grouped should have the proper relationship as to percentage of the entire time consumed in the standard 4-year course and the courses in most osteopathic colleges consist of more than the required number of hours. The following schedule gives the approximate percentage of hours in relation to the whole course:

Department:	Percent
1. Anatomy including embryology and histology-----	18.5
2. Physiology-----	6.0
3. Biochemistry-----	4.5
4. Pathology, bacteriology, and immunology-----	5.0
5. Pharmacology-----	5.0
(Including, additionally:)	
Comparative therapeutics,	
Materia medica—associated subjects.	
6. Public health-----	4.0
(Including, additionally:)	
Hygiene—sanitation.	
7. Osteopathic medicine-----	26.5
(Principles, technique, practice.)	
(Including, additionally:)	
Neurology-psychiatry.	
Pediatrics.	
Dermatology and syphilology.	
8. General surgery-----	17.5
(Including, additionally:)	
Orthopedic surgery.	
Urology.	
Otolaryngology.	
Radiology.	
9. Obstetrics and gynecology-----	5.0

Textbooks approved for study in osteopathic colleges include the osteopathic texts dealing with the principles and practice of the distinguishing methods of osteopathy, plus texts as used in nonosteopathic medical schools.

The subject of medical therapeutics and the practice of medicine are covered as indicated above. The first 2 years of work are devoted chiefly to the basic sciences and include anatomy (descriptive histology, embryology, dissection),

physiology, chemistry, pathology, and bacteriology, supplementary therapeutics (toxicology, pharmacology, anesthesiology, narcotics, antiseptics), and biological therapeutics (vaccines, serums, antitoxins, etc.).

The last 2 years include hygiene and sanitation, practice of osteopathy, surgery, obstetrics, gynecology, etc., and include eye, ear, nose, and throat, nervous and mental diseases, public health, etc.

Upon graduation, the degree of D. O., doctor of osteopathy, is conferred. Candidates for graduation in all approved colleges must be 21 years of age, and have given a minimum number of osteopathic treatments.

The Public Health Service regulations do not literally give preference to any school of medicine. I have here an announcement of the Public Health Service under date of January 17, 1947, of a competitive examination for appointment of medical officers in the Regular Corps which states in part as follows:

Applicants must be at least 21 years old, citizens of the United States and graduates of recognized medical schools.

There is nothing in that announcement which indicates that osteopathic candidates may not apply; nor is there anything to indicate that they may apply. In any event, when they do apply, their applications are rejected on the ground that there is no place for them in the Service.

Anything less than express provision by Congress of osteopathic eligibility as medical officers, has proven to be of no avail.

On the contrary, express provision by Congress has proven effective. Witness the appointments made under the temporary provision which the Public Health Service construed as eligibility for sanitarian appointments.

Another example of the effectiveness of congressional provision of eligibility is provided by the May 31, 1938, amendment to the U. S. Employees' Compensation Act (U. S. C., 1940 edition, title 5, sec. 790), whereby Congress specifically defines the term "physician" and the term "medical, surgical, and hospital services and supplies," to include services by osteopathic physicians and hospitals. The U. S. Employees' Compensation Commission contended at the time that it had authority to furnish the services of osteopathic physicians and hospitals for the care of Federal civil employees who became ill or injured due to their employment. It just would not see fit to exercise the authority. When Congress specifically passed the amendment giving express authority in 1938, the Commission promptly exercised that authority and continues to do so.

An example of executive exercise of express authority granted to appoint osteopathic physicians as medical officers is furnished by section 5 of the act of January 3, 1946, establishing a Department of Medicine and Surgery in the Veterans' Administration. The Administrator of Veterans' Affairs contended at the time that he had the authority. He just was not exercising it. Section 5 of the act (Public Law 297, 79th Congress) reads in part as follows:

SEC. 5. Any person to be eligible for appointment in the Department of Medicine and Surgery must—

(a) Be a citizen of the United States.

(b) In the Medical Service—

hold the degree of doctor of medicine or of doctor of osteopathy from a college or university approved by the Administrator, have completed an internship satisfactory to the Administrator, and be licensed to practice medicine, surgery, or osteopathy in one of the States or Territories of the United States or in the District of Columbia.

As a result of that express authority granted by Congress, the Administrator of Veterans' Affairs has made and is making appointments of osteopathic physicians in the Department of Medicine and Surgery of the Veterans' Administration.

By provisions of Public Law 604, 79th Congress, approved August 2, 1946, Congress expressly declared osteopathic graduates eligible for appointment as commissioned medical officers in the Navy as follows:

SEC. 41. The President, in his discretion, is authorized to appoint, by and with the advice and consent of the Senate, graduates of reputable schools of osteopathy as commissioned medical officers in the Navy, in such numbers as the President should determine to be necessary to meet the needs of the naval service for officers trained and qualified in osteopathy.

The Navy contended at the time that it had the authority. It just was not exercising it. Nevertheless, Congress proceeded to grant express authority; the President has not yet designated the number of osteopathic graduates to be appointed.

From the foregoing, it is apparent that in the absence of express declaration by Congress of osteopathic eligibility as medical officers, no appointments are made, whereas the contrary has been true when Congress has made express provision of osteopathic eligibility.

There are some 11,000 legally licensed osteopathic physicians or surgeons and in excess of 300 osteopathic hospitals in the United States. An annual average of 400 graduate from the six recognized schools of osteopathy and surgery, each graduate having had a minimum of two years, many have had four years, training in an accredited liberal arts college prior to admission to the four-year course in an osteopathic college. Fifty-eight intern-training hospitals are approved after annual inspection by the American Osteopathic Association.

Physicians trained in osteopathic institutions are legally licensed and practicing in all of the States. They take their places as general practitioners; specialists; as members of State boards of health; as county, city, and town health officers; and as industrial plant physicians and school physicians.

They should be permitted to qualify and take their places in the Public Health Service, in unmistakable language as medical officers as provided in the proposed amendment.

MR. DOLLIVER. Thank you, Mr. Gourley.

Any questions, Mr. Priest?

MR. PRIEST. No, Mr. Chairman. I believe the statement is fully clear.

MR. GOURLEY. Thank you very much for your attention.

MR. DOLLIVER. We will next hear from Mr. Millard W. Rice, National Service Director, Disabled American Veterans.

Is Mr. Rice present?

MR. RICE apparently is not present.

I do not want to embarrass you, Dr. Parran, but do you have any comment to make at this time about the suggestion of the Treasury Department?

DR. PARRAN. Mr. Chairman, you are not embarrassing me at all. The letter from the Treasury was dated only today. But during the interval which you have kindly given us, both the Deputy Surgeon General and I have read the Treasury letter.

In effect it recommends that there be added to the list of habit-forming drugs the word "opiates."

An opiate has been defined in the Internal Revenue Code to mean any drug, as defined in the Federal Food, Drug, and Cosmetic Act, found by the Secretary of the Treasury, after due notice and opportunity for public hearing, to have an addition-forming or an addiction-sustaining liability similar to morphine or cocaine, and proclaimed by the President to have been so found.

There has recently been developed, as the Secretary of the Treasury points out, a new synthetic pain-killing analgesic drug known as "Amidone," which recently has been tested and found to have habituating qualities, or may soon be found to be, and proclaimed as, an opiate under this act.

In other words, the science of synthetic chemistry is progressing, and we can anticipate in the future that additional new habit-forming drugs will be developed.

Under our present law the Congress must amend the act to add one after another such drugs which have been found to be habituating.

The amendment seems to me a very sensible one. It does not seem to set any precedent of delegating congressional authority, because as the Secretary of the Treasury points out, the term "opiate" as defined in the Internal Revenue Code, may include new synthetic habit-forming drugs.

Opiate used in this legal sense is a generic term, and not specifically referring to an abstract of the poppy plant. It seems to me a very sensible suggestion. I do not know why we had not thought of it ourselves, except that perhaps this is the first recent instance of a possibly habit-forming drug which has been developed.

I assume that a similar letter has gone to the Senate committee. I am anxious, if it is possible, for the reports of these two committees to be identical so as to obviate the need of last-hour conferences, in view of the lateness of the session, and in the interest of conserving your time, as well.

Mr. PRIEST. Has the Senate committee held any hearings?

Dr. PARRAN. The Senate committee has held hearings similar to this, and I presented testimony similar to that which I presented here this afternoon. The Senate committee has voted to report out the bill with one amendment.

Mr. DOLLIVER. At this point in the record, the letter of the Treasury Department, I believe, should be incorporated.

(The letter referred to is as follows:)

TREASURY DEPARTMENT,
Washington, July 3, 1947.

MY DEAR MR. CHAIRMAN: Further reference is made to your letter of June 23, 1947, in which the views and comments of this Department are requested on H. R. 3924, to amend the Public Health Service Act in regard to certain matters of personnel and administration, and for other purposes.

This Department is interested only in section 1 of the bill which includes "isonipeaine and its derivatives, compounds, salts, and preparations" within the classification of habit-forming narcotic drugs, such as morphine, addiction to which may be therapeutically treated under present law at certain Public Health Service hospitals.

Isonipeaine (known also under the trade name "demerol") and its salts having heretofore been determined to be habit-forming drugs comparable to morphine, were added to the classification of narcotic drugs regulated by Federal narcotic laws administered by this Department, by the act of July 1, 1944 (26 U. S. C., Sup. V, 3228 (e)). Experience has shown that improper use or abuse of isonipeaine (Demerol) has given rise to and sustained drug addiction, and the Department approves section 1 of the bill which will permit curative treatment

of those unfortunately addicted to this drug in the same manner as is now authorized for those addicted to morphine.

The Department recommends, however, that section 1 of the bill be amended by inserting immediately after the semicolon at the end thereof the word "opiates;". An "opiate" is defined by section 1 of the act of March 8, 1946 (sec. 3228 (f) of the Internal Revenue Code), to mean any drug (as defined in the Federal Food, Drug, and Cosmetic Act) found by the Secretary of the Treasury, after due notice and opportunity for public hearing, to have an addiction-forming or addiction-sustaining liability similar to morphine or cocaine, and proclaimed by the President to have been so found by the Secretary. A new synthetic analgesic drug known as Amidone, recently tested and found to have habituating qualities, may soon be found to be, and proclaimed as, an opiate under this act.

When a new drug is thus proclaimed as an opiate, it becomes subject to the Federal laws regulating the traffic in narcotic drugs but, unless the amendment recommended to section 1 of the bill is adopted, curative treatment for addiction to such a dangerous drug cannot be afforded at the Public Health Service hospitals. The Department recommends the approval of section 1 of the bill, with the addition of the word "opiates;", to authorize treatment at the designated Public Health Service hospitals of addiction, not only to morphine or cocaine, but to other drugs which are similar thereto in addiction-liability and subject to the same regulation under the Federal laws controlling the traffic in narcotic drugs.

In view of your request that this report be expedited it has not been possible to obtain the usual Bureau of the Budget clearance prior to its submission.

Very truly yours,

E. H. FOLEY,

Acting Secretary of the Treasury.

MR. PRIEST. The suggestion simply is the adding of the word "opiate", is it not?

DR. PARRAN. Yes.

MR. PRIEST. And then "opiates" has been defined by an act of Congress.

DR. PARRAN. Under the Internal Revenue Code.

MR. DOLLIVER. Are there any other witnesses in the room who wish to be heard at this time?

DR. PARRAN. I have the brief statement that I made which dealt with several sections, that is, promotion, pay, and other matters, while this analysis takes up the bill section by section.

MR. PRIEST. That is what we need.

MR. DOLLIVER. That should be in the record.

DR. PARRAN. With your permission, I should like to submit for the record, Mr. Chairman, the more detailed analysis of H. R. 3924, which describes the significance of each section of the bill, and interprets the proposed amendments more fully than I did in my testimony.

MR. DOLLIVER. Without objection the statement detailing the various sections of the bill is inserted in the record at this point.

(The statement referred to is as follows:)

Through many enactments over the years, Congress has followed the policy of keeping the commissioned corps of the Public Health Service on a par as regards rates of pay and promotion with the Army and Navy. Since the Public Health Service promotion system is related by law to that of the Army Medical Corps, the amendments to the Public Health Service Act encompassed in S. 1454 and H. R. 3924 are technically necessary in order to permit the Public Health Service personnel system to function after establishment by law of the new system proposed for the Army in S. 904 and H. R. 2536.¹

S. 1454 and H. R. 3924 would follow the Army proposals in changing the present system of promotion based entirely on years of service to a system still based on seniority and length of service, but with an element of flexibility added. This would permit acceleration of the rate of permanent promotion of qualified officers

¹ Now included as title V of H. R. 3830, which was passed by the House on June 25 without substantial amendment.

when additional officers are needed in higher grades, and would permit temporary promotion of exceptionally well-qualified officers to fill certain positions. Promotions up to the senior grade (lieutenant colonel) would be authorized after a specified number of years of service. Promotions to the director grade (full colonel) would be made only when vacancies exist instead of on the basis of years of service as is now the case.

Other proposed amendments would allow the Service to use funds for the advanced technical training of commissioned officers, and would authorize appointment of up to ten percent of new officers at grades above senior assistant (equivalent to captain in the Army). The flexibility resulting from the proposed amendments would greatly improve the ability of the Public Health Service to deal with the new responsibilities placed upon it by the Congress.

Section 1 of the enclosed draft amends section 2 (j) of the Public Health Service Act, which defines the term "habit-forming narcotic drug," so as to include "isonipeaine" (trade name, "demerol"). This is purely a technical amendment, there being no longer any doubt that isonipeaine is a habit-forming drug which should come within the purview of section 302 of the Public Health Service Act. Similar amendments have already been made in the tariff laws and other laws dealing with narcotics (Public Law 414, 78th Cong.).

Section 2 proposes the elimination of the last sentence of section 203 of the act providing promotion credit in the Regular Corps for all active service in the Reserve Corps. This is a purely technical amendment. Such promotion credit is now provided under subsection (d) of section 207 as amended by section 5 (d) of the draft bill. There is, therefore, no further need for this sentence of section 203, the provisions of which are inconsistent in some respects with other provisions of the Public Health Service Act.

Section 3 amends section 205 of the act by authorizing the Surgeon General, with the approval of the Administrator, to create special temporary positions in the grade of Assistant Surgeon General when necessary for the proper discharge of the duties of the Service. The number of such temporary positions combined with the positions above the director grade authorized by sections 204 and 205 would be limited to three-fourths of 1 percent of the total number of officers, Regular and Reserve, on active duty. This would provide for increasing the number of general officers in proportion to the increase in the work required of the Service.

The proposed ratio conforms with that provided for the Medical Department of the Army in section 4 (a) of S. 904 and H. R. 2536. Authority presently exists in section 207 (a) of the act for the President in time of war to establish not more than three temporary positions in the grade of Assistant Surgeon General. This amendment would make section 207 (a) of the act unnecessary.

Section 4 (a) amends section 206 of the act to provide that the Deputy Surgeon General would hold the grade, pay, and allowances of a major general, and that the Administrator may designate additional Assistant Surgeons General who would have the rank of major general, but that not more than half of the total number of Assistant Surgeons General would hold ranks above that of a brigadier general. This limitation likewise follows the provisions of section 4 of S. 904 and H. R. 2536.

Section 4 (b) adds to section 206 of the act two new subsections: (c), which carries over that part of section 207 (b) of the present act which authorizes an officer assigned as chief of a division to hold temporarily the grade of director, and (d), which is altogether new. This would authorize the Administrator (within the total number of Regular Corps officers authorized by appropriation act) to prescribe the maximum numbers of officers for each of the grades from junior assistant to director, inclusive. These numbers would be determined after considering the anticipated needs of the Service, the funds available, the numbers of officers in each grade, the expected recruitment, and the anticipated promotions and retirements, and would be subject to limitations (if any) prescribed for any grade in appropriation acts. This provision would be in lieu of the provisions of section 6 (b) of S. 904 and H. R. 2536 wherein the proportions in each grade in the Army would be fixed in law. The fixing of ratios in law may well be appropriate for an organization as large as the Army, but would be administratively impracticable for a comparatively small and highly specialized organization such as the Public Health Service, with one to two thousand officers. Situations and demands on the Service change from year to year, and it seems more feasible to authorize the Administrator to make necessary adjustments.

Section 5 (a) proposes to eliminate present section 207 of the act, and to re-number sections 208 and 209 of the act as sections 207 and 208, respectively.

Section 207 of the present act provides for the creation of special temporary positions and for the assignment of commissioned and noncommissioned personnel to be chiefs of administrative units. As certain of its provisions are retained in modified form under sections 3 and 4 (b) of this draft bill, the remaining provisions are believed to be no longer necessary.

Section 5 (b) eliminates the word "surgery" from section 207 (e) (1) of the act as renumbered by this draft bill. Present language mentions "several branches of medicine, surgery, dentistry, hygiene," etc. Surgery is, itself, a branch of medicine and does not seem properly to constitute a category of its own on a level with medicine and dentistry. Section 5 (b) also amends paragraph (2) of subsection (a) of section 207 of the draft bill in such a manner as to clarify and simplify administrative procedure in connection with the termination of Reserve Corps commissions. The Public Health Service Act at present provides for the termination of Reserve Corps commissions by the President in his discretion. The amendment here proposed would authorize the President to direct that actual terminations be made by an appropriate official of the Federal Security Agency or in such other manner as he may think appropriate.

Section 5 (c) amends subsection (b) of section 207 of the act so as to enable the President each fiscal year to make initial appointments of officers to the Regular Corps in grades above that of senior assistant (equivalent to captain in the Army) in numbers not to exceed 10 percent of the total number of appointments authorized to be made for such year. Under present authority, which has existed since 1930, only three such appointments are permissible during the year. In 1930 and for a considerable time thereafter the total number of new appointments made annually in all grades approximated only 20 to 35, so that the three appointments to the higher grades provided for substantially the same ratio to the total appointments as that being sought by this amendment. With both the scope and volume of work materially increased, the Public Health Service finds it quite impossible, under existing limitations, to recruit at the grade of senior assistant or below the needed personnel who have already attained the necessary competence in the several specialized fields. The alternative in the past has been an increasing dilution of the more mature and experienced talent of the Service through spreading the limited number of such personnel over an increasing range of activities and then filling in with younger and less well-trained people. The amendment proposed by section 5 (c) of the enclosed draft would help the Service to overcome the unfortunate result of this dilution. It assures appointment of qualified personnel, however, by requiring appointees to meet standards established in accordance with regulations of the President.

Section 5 (d) contains a renumbering provision, and would also add to the section of the act renumbered as section 207 new subsections as follows:

The proposed section 207 (c) authorizes the Administrator to issue commissions evidencing appointment by the President. This is similar to the practice of other agencies of the Government to which commissioned officers may be appointed.

The proposed section 207 (d) (1) and (2) standardizes the amount of longevity and promotion credit authorized for officers appointed above the assistant grade. These credits would correspond to the proposed new promotion scale of 3, 10, 17, and 18 years of service required for promotion to the senior assistant, full, senior, and director grades, respectively. This provision will replace the existing provision of the act under which an officer originally appointed to a grade above that of senior assistant is given longevity credit equal to that of the junior officer of the grade. The subsection will eliminate the inequitable variation in length of service now credited to new appointees to the higher grades for purposes of pay and pay period.

Paragraphs (3) and (4) of proposed section 207 (d) specify the promotion credit to which officers would be entitled who enter the Regular Corps after active service in the Reserve Corps. Under section 210 (a) (2) of the present act, an officer appointed in the Regular Corps above the assistant grade may receive credit for active service in the Reserve Corps only to a maximum of 10 years if appointed in the senior assistant grade and 14 years if appointed in the full grade. Proposed paragraph (3) would remove these limitations and would add to the credit authorized in proposed paragraph (1) of subsection (d), the excess of his total active service over and above the time credited to him under said paragraph, but only to the extent that such excess was spent in the Reserve Corps in the grade to which appointed or in a higher grade. As an alternative, it would authorize adding to the credit authorized in proposed section 207 (d) (1), credit for time served in the Reserve Corps in or above the grade to which appointed in the Regular Corps after the officer became eligible for appointment to such

grade in the Reserve Corps in accordance with regulations in effect at the time of his appointment to the Regular Corps. This method of granting promotion credit seems advisable because requirements for appointment and promotion in the Reserve Corps have varied from time to time in the past, particularly during the war years. It is important that there be a uniform basis for assigning such credit in the future.

Section 5 (e) grants additional longevity credit to officers who came into the Public Health Service above the assistant grade and who received no such credit or who received substantially less credit than officers appointed to the same grade at different times. The longevity credit authorized by this subsection will be granted only if it is greater than the longevity credit received by an officer at the time of his appointment. This provision, like the proposed section 207 (d) (1), is designed to eliminate substantially all of the inequitable variations in length of service credited to these officers for purposes of pay and pay period at the time they received their original appointments.

Section 5 (f) provides that officers appointed in the Regular Corps between the date of the enactment of this proposed legislation and January 1, 1948, shall be given longevity and promotion credit and seniority in grade based upon the years of service required for promotion to the grade to which appointed in accordance with the provisions of section 210 of the present act, or as amended by this proposed bill, whichever credits are greater. This provision is desirable in that persons who will be in the process of being commissioned in the Regular Corps on the date of the enactment of this proposed bill may receive upon appointment the credits to which the present law entitles them and which they were informed they would receive. This is comparable to section 7 (g) of S. 904 and H. R. 2536.

Section 5 (g) is a technical amendment made necessary by the renumbering of section 208 to section 207.

Section 5 (h) adds a new section 209 to replace the present section 209 which would be redesignated as section 208. This new section provides for the establishment of professional categories by the Surgeon General to which all officers would be assigned for the purpose of determining seniority, eligibility for promotion, etc. The Surgeon General would be authorized to allocate numbers for each grade in the several categories within the total numbers prescribed for each grade by the Administrator under the authority of the proposed section 206 (d) (section 4 (b) of this bill). This would follow the practice proposed for the Army in section 3 of S. 904 and H. R. 2536, but without having fixed in law the categories to which the comparatively small group of Public Health Service officers would be assigned. The numbers prescribed for each grade and category by the Surgeon General would constitute maximum numbers and when in excess of the number of officers actually on duty in that grade and category, the difference would constitute vacancies to which promotions might be made.

Proposed section 209 (a) authorizes the establishment of the categories. Subsection (b) provides for the assignment of officers to categories and limits the transfer of officers between categories to situations where the original assignment was erroneous or where an officer who is equally qualified to serve in another category requests a transfer and the transfer is found to be in the interest of the service. Subsection (c) authorizes the Surgeon General to establish the numbers within each grade in each category. Subsection (d) authorizes the excess of such numbers over the number of officers on duty to be considered as vacancies, but would provide that the number authorized for the grade from which an officer is temporarily promoted to be reduced by one.

Proposed section 209 (e) authorizes the number in grade and category to be exceeded in the event of original appointment to a grade, the recall of a retired officer to active duty in a grade, or a promotion to a grade authorized to be made on the basis of years of service. This provision, insofar as it relates to promotions based on years of service, follows that of section 10 (b) of S. 904 and H. R. 2536. Insofar as this provision relates to appointments it would prevent a blocking of recruitment in case the number which could be recruited for a grade had not been correctly estimated when the numbers were established. It is contemplated that these exceptions would be few in number, but it is deemed important that they be authorized to meet situations which may be expected to arise from time to time.

Proposed section 209 (f) authorizes a vacancy in a grade to be utilized in a lower grade if it were deemed undesirable to fill the vacancy at the time it occurs. If the vacancy is utilized in the lower grade, it would not be filled in the higher grade except by permanent promotion in which case the vacancy

would be "returned" from the lower grade to its original grade. This provision follows that of section 6 (b) (3) of S. 904 and H. R. 2536.

Section 6 (a) is a complete revision of section 210 of the act and relates to the promotions of officers of the Regular Corps.

Proposed section 210 (a) provides that promotions may be of three types; first, permanent promotions based on length of service, which might be called automatic promotions; second, permanent promotions to be made when vacancies exist, and third, temporary promotions. Permanent promotions would be made by the President with the advice and consent of the Senate as at present, but temporary promotions would be made by the President alone. This would relieve the Senate of a routine burden and is consistent with practice in the other commissioned services. The provision of present law that permanent promotions will be made only after examination given in accordance with the regulations of the President would be retained.

Proposed section 210 (b) provides that the President may, for any specified professional category, limit promotions to the full grade, or to the full and senior grades, to vacancies in such grades. This would authorize the President to take action which would place automatic promotions of commissioned nurses of the Public Health Service, for instance, on a comparable basis with those in the nurse corps recently established by the Army-Navy Nurse Act of 1947. This act provides for automatic promotions only to the grade of captain in the Army and lieutenant in the Navy. For the Women's Army Corps, S. 904 and H. R. 2536 would similarly provide for automatic promotions only to the grade of major. Promotions above these grades would be made only when vacancies exist. If the President took such action, the grades involved would be called restricted grades.

Proposed section 210 (c) provides, in addition to the present noncompetitive method of conducting examinations for promotion, a method whereby such examinations could be made competitive. Under this provision, the Surgeon General would determine in advance the number of officers in a given group who are to be found qualified for promotion. It is provided that, in considering officers for promotion to any grade other than to a restricted grade or the director grade, the Surgeon General may not specify, as a number to be found qualified, less than 80 percent of the officers to be examined. In any case officers would be selected for examination for permanent promotion in the order of their seniority. These provisions follow those of section 10 (e) of S. 904 and H. R. 2536.

Proposed section 210 (d) provides that officers in the junior assistant grade shall be promoted at such times as may be specified in regulations of the President and further provides for the promotion of officers to the senior assistant, full and senior grades (captain, major and lieutenant colonel), except for promotions to restricted grades, upon completion of 3, 10, and 17 years of service, respectively. This is comparable with the years of service required for promotion of officers of the Army Medical Corps under sections 7 (c) and 10 (b) of S. 904 and H. R. 2536. This section also provides that when an officer is promoted on the basis of years of service, any officer senior to him in grade, even though he has less than the required service, shall be promoted simultaneously, and that both officers shall retain their relative seniority. This situation could arise in the event that an officer once failed to qualify for promotion but was later promoted after officers previously junior to him had been promoted to the next grade.

Proposed section 210 (e) provides for permanent promotions to fill vacancies when they exist, and limits eligibility for promotion to the director grade or to any restricted grades to officers who have served at least 1 year in the next lower grade. This is similar to the provision of section 12 (d) of S. 904 and H. R. 2536 except that for nurses, women's medical specialists, and women's Army corps officers, variable provisions regarding length of service before promotion to a restricted grade are made. It seems more feasible for the Public Health Service to make these requirements uniform.

Proposed section 210 (f) provides that an officer once failing to be promoted upon completion of years of service shall be again considered and, if found eligible, he shall, if not promoted at an earlier date to fill a vacancy, be promoted regardless of vacancies, such promotions to become effective one year subsequent to the date upon which he would have been promoted but for such failure. However, for promotion purposes his years of service shall be reduced to that required for promotion to the grade to which promoted. This would prevent such an

officer carrying extra years of service into the next grade and thereby qualifying for promotion to a higher grade as though he had not failed to be promoted. These provisions follow those of sections 10 (g) and (h) of S. 904 and H. R. 2536.

Proposed section 210 (g) provides for the separation or retirement of officers found not qualified for promotion. Officers in and above the assistant grade would be separated or retired after twice failing an examination for promotion (other than promotion to a restricted grade or to the director grade) instead of after one failure as is provided in present law (section 210 (c)). The mechanics for separating or retiring an officer under this provision are identical to those included in the present act. This provision is comparable to section 10 (h) of S. 904 and H. R. 2536. It is believed that better selection of officers for promotion and for elimination will result from this change. An examining board is reluctant to take upon itself the sole responsibility for eliminating an officer, but under the proposed amendment, the first board's action would simply place the officer on notice. The second examining board would have the backing of the first board's action if it concluded that the officer should not be promoted. An officer first failing a promotion would be placed on notice and would have opportunity to improve his record, and the second board would be able to correct a possible injustice done by the first board in failing an officer.

Proposed section 210 (h) remedies a deficiency in present law and would authorize the President to issue regulations providing for separation from the service of an eligible officer who refuses to take an examination for promotion. This will prevent an officer from electing to stay in a certain grade if he suspects he may not be able to pass his promotion examination.

Proposed section 210 (i) is simply section 210 (b) of the present act, which provides that officers appointed to grades above the assistant grade shall have their records reviewed after three years to determine their fitness for continuation on duty.

Proposed section 210 (j) provides for the determination of seniority in each grade and category in the Regular Corps. This is important inasmuch as officers will be considered for permanent promotion in order of seniority. The basic determining factor is length of time in a particular grade in the Regular Corps, but special provisions are included for determining seniority in the case of officers of the Reserve Corps upon original appointment to the Regular Corps. Upon appointment or promotion to a grade an officer becomes junior to all other officers except that a Reserve Corps officer upon appointment to the Regular Corps may be given seniority credit in the grade to which appointed in accordance with the formula previously discussed under section 5 (d) of the draft bill (proposed section 207 (d) (3)) for assigning promotion credit to officers on original appointment to grades above that of assistant. When two or more officers are appointed to the same grade on the same day, or an officer is appointed to a grade on the same day as an officer already in the corps is promoted to the grade, relative seniority is to be determined by regulations of the President.

Proposed section 210 (k) authorizes temporary promotions to fill vacancies in higher grades in a category. It includes also a provision similar to section 210 (a) (1) of the present act that in time of war or national emergency, officers of the Regular Corps may be temporarily promoted without regard to vacancies. Selection of officers for temporary promotions shall be made in accordance with regulations prescribed by the President.

Proposed section 210 (1) parallels section 17 (b) of S. 904 and H. R. 2536. All provisions concerning the fixing of authorized numbers in grade, the establishment of categories, and numbers in grade in respective categories so far refer to the Regular Corps only. The authorized strength of the Regular Corps of the Public Health Service is fixed annually by the Congress in the appropriation act. It has been necessary in time of emergency and of expansion, such as the Public Health Service has recently undergone, to supplement the Regular Corps with considerable numbers of Reserve Corps officers called to active duty for varying periods of time to carry on the work of the service. In many cases Reserve Corps officers are assigned to permanent duties in order to release more experienced Regular Corps officers for assignment to other duties which, though temporary in nature, require special skill and experience. When the total number of officers on active duty exceeds the strength authorized for the Regular Corps, this proposed subsection would authorize the Administrator to establish maximum numbers in grade and category taking into consideration all such officers on active duty. Additional vacancies occurring in grade and category as a result of the establishment of such numbers could be filled by the temporary promotion

of either Regular or Reserve Corps officers. This will allow adequate flexibility to meet temporary and emergency situations.

Proposed section 210 (m) provides that an officer of the Regular Corps and an officer of the Reserve Corps on active duty shall, upon promotion, be deemed to have accepted such promotion unless he expressly declines it and shall not be required to renew his oath of office or his affidavit that he had not paid any consideration for his appointment. The requirement of such action upon the promotion of officers on active duty seems an unnecessary administrative burden.

Section 6 (b) prescribes January 1, 1948, as the date of conversion to the new promotion schedule, and continues in effect until that date the authorization in section 210 (a) (1) of the present act for temporary promotions. This provision is administratively necessary to enable the Public Health Service to continue its present temporary promotion schedule during the integration period in order to avoid denying officers temporary promotions to which, on the basis of parity with their colleagues, they are equitably entitled.

Section 6 (c) parallels that of section 19 (b) of S. 904 and H. R. 2536, which equalizes the promotion credit of medical and dental officers in the Regular Army prior to December 28, 1945, with the credit of those taken into the Army under the integration program initiated on such date by Public Law 281, 79th Congress (59 Stat. 663) and terminating on December 31, 1947, as proposed in section 3 (g) of S. 904 and H. R. 2536. Under this program, medical and dental officers were appointed as 1st lieutenants in the Regular Corps of the Army and on the date of such appointment were given promotion credit based on the difference between their actual age and age 25. Because the average ages of medical and dental officers already in the service were 28 years and 5 months and 28 years and 1 month, respectively, medical and dental officers appointed and given constructive service under the integration program received, respectively, 3 years and 5 months and 3 years and 1 month average advantage over their colleagues who had previously entered the Regular Army. The Public Health Service has had no provision for constructive service on the basis of age for medical and dental officers entering during the past 2 years, and its officers are still being appointed under regulations comparable to those of the preintegration regulations of the Army. Public Health Service medical and dental officers, therefore, are on the same promotion status as the preintegration Army officers and it is only equitable that they should receive the same credit as Army medical and dental officers to place them on a parity with their medical and dental school classmates who entered the Army under the integration program. Otherwise, officers who entered the Service in past years will actually be penalized in favor of those who entered the Army during the integration program and thereby received a premium for not having entered Government service earlier.

Section 6 (d) provides for the promotion of officers in the Regular Corps of the Public Health Service on January 1, 1948, in accordance with the new promotion scale set forth in section 6 (a) based on completion of years of service. It follows the principles of section 20 (a) and (b) of S. 904 and H. R. 2536. The proposed effective date, however, is January 1, 1948, for the Public Health Service instead of June 30, 1948 as proposed for the Army. It will be possible for the Service to complete the necessary administrative processing to effect such promotions by the first of the year rather than waiting another 6 months, as the Army, with its much larger corps, finds necessary. For the initial conversion, promotions based on completion of years of service under the new schedule would be automatic except to the director grade and any grades that might be restricted by the President. Seniority in grade will be given to each officer so promoted equal to the difference between his promotion credit and the years of service required for promotion to the grade to which promoted.

Section 6 (e) is a blanket provision to maintain until January 1, 1948, the status of officers, including officers temporarily promoted to a higher grade under present law.

Section 7 amends section 211 of the act (which concerns retirement) in certain respects to conform to the present practice of the Army and the provisions of S. 904 and H. R. 2536. Section 7 (a) amends section 211 (b) to provide for the retirement of any officer within the discretion of either the officer or the Administrator upon completion of 30 years of service. These provisions follow present Army practice.

Section 7 (b) amends paragraph (2) of section 211 (c) of the act to authorize any officer who has served for four years or more in grades above the director grade to retire with and receive the retired pay of the highest grade held

by him in such capacity. Section 211 (c) (2) of the present act carries this provision only for the Surgeon General and the Deputy Surgeon General. This provision would be in lieu of the provision of section 16 (a) of S. 904 and H. R. 2536 which authorizes the retirement of general officers in their permanent grades. The proposed amendment seems more appropriate for the Public Health Service inasmuch as the permanent grade of general officer is not established for officers of the Public Health Service.

Section 7 (c) is a technical change made necessary by the revision of section 211 (b) of the act.

Section 7 (d) proposes to add two new subsections to section 211 of the Public Health Service Act. Subsection (g) provides for the retirement of officers in or below restricted grades at the age of 50, if in the senior assistant grade, and at the age of 55 if in the full grade. This provision parallels the provisions of the Army-Navy Nurse Act of 1947 except that the retirement of such officers would be left to regulations of the Administrator rather than be made mandatory as is the case in the Army-Navy Nurse Act. Subsection (h) is an amendment of a technical nature designed merely to clarify existing law in respect to retired pay of officers. At the present time there is some doubt as to the consequences of a Reserve officer's recovery from a disability for which he had been retired and for which he is receiving retired pay. The proposed new subsection would remove these doubts by providing for termination of the retired pay in the event of recovery from disability. It also provides for the suspension of retired pay for refusal of an officer retired for disability to submit without good cause to a medical examination and for termination of the pay if such failure continues for six months.

Section 8 of the draft bill would add a new section to title 2 of the act. The new section 218 would authorize the Service to provide training for commissioned officers of the Regular Corps through payment of pay and allowances and, subject to Presidential regulations and to any limitations contained in the appropriations for the pay and allowances of commissioned officers, through payment of their tuition, fees, and other expenses, while attending educational institutions. In public health, as in the sciences generally, progress is a function of an almost continuous process of learning. The Service, in order to discharge its functions, must keep abreast of the several sciences upon which its work rests.

The field of these sciences, however, is much too large to be encompassed completely by any single organization. Discoveries, new knowledge, and new techniques originate from the widest variety of sources. Accordingly, it is essential that the Service be able to take advantage of such new knowledge by keeping its own officers adequately informed, not alone through in-service training, but also through sending them to institutions where such knowledge can most readily be imparted to them.

Section 9 (a) amends section 706 of the act. Section 706 presently provides that if an officer was more than 45 years of age when commissioned in the Service and if he was so commissioned prior to July 1, 1944, under the Parker Act (Act of April 9, 1930, 46 Stat. 150), he may include in determining the amount of his retired pay pursuant to section 211 (c) (1) all noncommissioned and commissioned service in the Public Health Service. The amendment to section 706 would authorize other officers commissioned under the Parker Act to count all noncommissioned and commissioned service in the Public Health Service irrespective of their age at the time of appointment in computing the 30 years of service required for optional retirement under subsection (b) of section 211, as amended by this proposed bill. Many of these officers had performed years of noncommissioned service in the Service prior to their appointments. Thus, it seems only equitable that they should be allowed to count such noncommissioned service on the same basis as their colleagues who are presently authorized to count noncommissioned service solely because of the fact that they were more than 45 years of age at the time of their appointments.

Section 10 (b) of the enclosed draft amends title VII of the act of July 1, 1944, by renumbering section 711 as section 714 and inserting three new sections after section 710. (This title was formerly designated title VI. The Hospital Survey and Construction Act, Public Law 725, 79th Congress, redesignated it as title VII.)

The first of these new sections, section 711, replaces in slightly modified form provisions which are now in section 208 (b) (2) of the Public Health Service Act, as amended. These provisions deal with the appointment of officers in advanced grades to assist in carrying out the functions of the Public Health Service relating to mental hygiene and hospital survey and construction. Section 208

(b) (2) now limits the number of such positions which may exist at any time to twenty for mental hygiene and twenty for hospital survey and construction. When one of the officers appointed under this section dies, retires, or resigns, another officer may be appointed in one of the higher grades to take his place. The new section 711 will limit the number of appointments which may be made to twenty for each purpose and, when all such vacancies have once been filled, no further appointments may be made under this section. The twenty appointments authorized to be made for each purpose would be reduced by the number of appointments already made for such purpose under the present section 208 (b) (2).

Under section 212 of the Public Health Service Act commissioned officers of the Service are entitled, with respect to their service on detail to the Army, Navy, or Coast Guard, their service outside the continental United States in time of war, and active service while the Public Health Service is part of the armed forces, to the same benefits as were provided on account of active commissioned Army service on July 1, 1944, the date of enactment of the Public Health Service Act. However, there were excluded from these benefits those which were specifically provided elsewhere in the Public Health Service Act, as well as the benefits of the Mustering-Out Payment Act of 1944. Since the Public Health Service was made part of the military forces of the United States on July 29, 1945, it seems reasonable that the commissioned officers of the Service should be entitled to the benefits of the Mustering-Out Payment Act in the same manner as commissioned officers in the other parts of the armed forces. The proposed new section 712 would accord these benefits to Public Health Service commissioned officers who have been separated from the Service or who are separated from it within three years after the end of the present war. These benefits would not, however, be available to officers entitled only to "limited military benefits," i. e., officers who had served in the Public Health Service in time of war but who had not had service on detail to the Army, Navy, or Coast Guard, or outside the continental United States in time of war, or while the Service was part of the military forces of the United States.

The new section 713 embodies the provisions of section 3 of S. 978. This would provide retirement benefits retroactively to Pearl Harbor for Reserve Corps officers disabled in line of duty prior to the enactment of the Public Health Service Act, approved July 1, 1944. These officers were in all respects subject to the same war conditions as were Regular and Reserve Corps officers, serving in the commissioned corps subsequent to July 1, 1944. It appears highly inequitable that they should be excluded from retirement benefits resulting from disability incurred through active duty in wartime.

Mr. DOLLIVER. The meeting is adjourned, ladies and gentlemen. Thank you all.

(Thereupon at 3 o'clock p. m., the subcommittee adjourned.)

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